

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
NORTHERN DIVISION AT KNOXVILLE**

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<b>IN RE:</b>	)	
	)	
<b>ROBERT EDWARD WALLEN and MISTY DAWN WALLEN,</b>	)	<b>Case No: 18-bk-30667-SHB</b>
	)	<b>Chapter 7</b>
<b>Debtors.</b>	)	

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**MOTION FOR CONTEMPT FOR VIOLATIONS OF THE AUTOMATIC STAY  
AND/OR DISCHARGE INJUNCTION AGAINST MORRISTOWN TIRE AND  
PERFORMANCE CENTER, LLC**

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**NOTICE OF HEARING**

**NOTICE IS HEREBY GIVEN** that a hearing will be held on **Thursday, December 19, 2019** at **9:00 a.m.** in the Bankruptcy Courtroom 1-C, Howard H. Baker, Jr. U.S. Courthouse, 800 Market Street, Knoxville Tennessee 37902 on:

**MOTION FOR CONTEMPT FOR VIOLATION OF THE AUTOMATIC STAY AND/OR  
DISCHARGE INJUNCTION AGAINST MORRISTOWN TIRE AND PERFORMANCE  
CENTER, LLC**

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought in the **Motion for Contempt** and may enter an order granting that relief.

Come now the Debtors, Robert Edward Wallen and Misty Dawn Wallen (hereinafter “Debtors”), by and through counsel, and for this Motion for Contempt would show unto the Court as follows:

1. Debtors filed the above-captioned Chapter 7 bankruptcy petition on or about March 9, 2019.
2. Morristown Tire and Performance Center, LLC (hereinafter “Morristown Tire”) was listed on the schedules of the Debtors (a copy of which is attached hereto as **Exhibit 1** and incorporated herein by reference) and the Creditor Matrix (a copy of which is attached hereto as **Exhibit 2** and incorporated herein by reference).
3. Debtors avers that no liability currently exists and/or was incurred with respect to Morristown Tire referenced in this Motion after the date the above-captioned case was filed.
4. On or about June 26, 2018, this Court entered a Discharge Order in the above-referenced bankruptcy case.
5. After a review of the Docket Report via “PACER” (the electronic public access service provided by the Federal Judiciary), no objection has been filed by any party, including but not limited to Morristown, in the above-captioned case. A copy of which is attached hereto as **Exhibit 3** and incorporated herein by reference.
6. Sometime around June 3, 2019, Debtors received information that there was a notice posted inside Morristown Tire’s store building titled “DEAD BEAT LIST.” A copy of which is attached hereto as Exhibit 4 and incorporated herein by reference.
7. As shown on **Exhibit 4**, there is a list of individuals contained in the notice, and Mrs. Wallen is one of those individuals.
8. As of the date of this Motion, the notice is still displayed in Morristown Tire’s building.
9. As a consequence of the collection efforts, Debtors requested that counsel assist in

stopping such action and harassment by Morristown Tire.

10. It is the Debtors' contention that this is an attempt to collect a debt - in violation of the automatic stay and/or discharge injunction of 11 U.S.C. §§ 362 and 524(a).
11. The attempts to collect have caused Debtors severe anxiety, emotional distress, and actual pecuniary loss.
12. The Debtor requests that the Court enter an Order of Contempt against Morristown Tire due to their direct, willful, and knowing violations of the Automatic Stay and/or Discharge Injunction and award actual damages, punitive damages, costs, and attorneys' fees in accordance with 11 U.S.C. § 362(k) and/or 11 U.S.C. § 105(a), and that Debtors have such other and further relief to which he may be entitled.

**WHEREFORE**, after notice and a hearing, Debtors pray that the Court enter an Order finding that Morristown Tire has violated the automatic stay and/or discharge injunction pursuant to 11 U.S.C. §§ 362 and 524(a) and award actual damages, punitive damages, costs, and attorneys' fees pursuant to 11 U.S.C. § 362(k) and/or 11 U.S.C. § 105(a) and for such other and further relief to which they may be entitled.

**DATED:** November 25, 2019.

**RESPECTFULLY SUBMITTED BY:**

**s/ Richard M. Mayer, BPR #05534**

**s/ John P. Newton, BPR #010817**

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that - on the below-described date - a true and exact copy of the foregoing **Motion for Contempt** and **Proposed Order** has been forwarded to the following by First Class US Mail with sufficient postage to insure delivery except as otherwise noted:

Tiffany DiIorio  
Office of US Trustee

(Via ECF and Email)

Morristown Tire and Performance Center, LLC  
720 E. Morris Blvd.  
Morristown, TN 37813-2444

(Via ECF and USPS)

**/s/ John P. Newton**

John P. Newton, BPR # 010817  
Law Office of Mayer & Newton

**DATED:** November 25, 2019